

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JOHN O'LEARY
JOSEPH C. O'LEARY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1841
CU - 2415

Decision No. CU-667

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$5,000.00 and \$29,500.00, respectively, were presented by JOHN O'LEARY and JOSEPH C. O'LEARY based upon the asserted ownership of bonds in the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana. Claimants state that they have been nationals of the United States since their births in the United States.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

These claims are based upon the asserted ownership of bonds issued by the Association of the Religious Community of the Company of Jesus of Bethlehem (Belen College). However, except for their own letters and statements, claimants have submitted no documentary evidence to establish their claims.

By Commission letter of June 7, 1967, claimants were advised as to the type of evidence proper for submission to establish these claims under the Act.

On July 24, 1967, claimants were invited to submit any evidence available to them within 45 days from that date, and they were informed, that, absent such evidence, it might become necessary to determine the claims on the basis of the existing record.

Thereafter, by letters of August 7, 1967, September 14, 1967, October 17, 1967, and October 26, 1967, the Commission made additional suggestions to claimants concerning the submission of supporting evidence in this matter.

By Commission letter of September 14, 1967, claimants were again, invited to submit any evidence available to them within 45 days from that date, and they were informed, that, absent such evidence, it might become necessary to determine the claims on the basis of the existing record.

Although claimants have since communicated with the Commission, the suggested evidence has not been submitted.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Moreover, claimants have failed to establish their qualification as nationals of the United States.

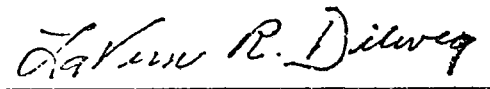
Thus, the Commission is constrained to deny these claims, and they are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claims.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

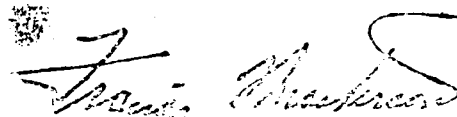
NOV 15 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner
CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the Final
decision on JUL 14 1968



NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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